

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:07-CR-272

v.

Hon. Robert J. Jonker

GENARO GERARDO DEANDA,

Defendant.

_____ /

ORDER OF DETENTION
and
ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER DETENTION

Pending before the court is Defendant's Motion to Reconsider Detention Decision (docket no. 34). Although this matter has come before the court on a motion to reconsider detention, the court determined that defendant was entitled to a full detention hearing *ab initio* since he waived the initial hearing while he obtained more information.

Defendant is charged with conspiring to distribute more than 100 kilograms of marijuana. This offense allegedly occurred while defendant was on probation in the Texas state courts on two separate convictions. He lives and is employed in Texas. If he returns to Texas, the state authorities have indicated they will arrest him for his probation violations. One of the two businesses he runs in Texas is a FedEx-type mailing service (Pac N Sav shipping) which, unfortunately, defendant allegedly used to mail thousands of pounds of marijuana around the country, including to Traverse City.

The government has shown by clear and convincing evidence, independent of the presumption, that no condition or combination of conditions will assure the safety of the community from further drug trafficking by the defendant, who has demonstrated a willingness to engage in substantial drug trafficking, even while on probation to the state courts in Texas. Nor will defendant be available for timely appearances in court here once he is arrested by Texas state authorities.

In the alternative, the court finds the presumption has not been rebutted.

The Defendant's Motion to Reconsider Detention (docket no. 34) is DENIED. The defendant is committed to the custody of the Attorney General or her designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

IT IS SO ORDERED.

Dated: March 5, 2008

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge